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SUBJECT: LEGISLATING AGAINST ECONOMICS

(SBU) Since the Morales administration came to power, the GOB has enacted a number of laws and decrees, some eliminating prior norms, which have had negative economic ramifications. The GOB does not appear to have fully considered the economic and legal consequences of some measures prior to their implementation. As one analyst explained, "the administration first jumps into the pool and then checks to see if it has any water." Following are several examples of areas in which the GOB has legislated against the laws of economics, and even against its own stated objectives:

- YPFB Vetoed: In May 2007, President Morales vetoed the Hydrocarbons Sustainable Development Law passed by congress that would have enabled the new contracts between state oil company YPFB and private production firms to come fully into force. The law would have specifically enabled the annex that defines YPFB's share of company profits to enter into effect. The president's veto threatens the future of YPFB and the GOB's "nationalization" program.

- Energy Shortages: In June 2007, President Morales promulgated supreme decree 29158 aimed at avoiding shortages of liquid petroleum gas (LPG) caused by capped domestic prices, which cause poor production incentives and large contraband incentives. Bolivia is essentially subsidizing neighboring countries by providing them with contraband LPG at less than half the cost in those countries. Instead of attacking the root cause of this problem, i.e., subsidized prices, decree 29158 places 13 prohibitions on the sale of LPG, gasoline, and diesel, some of which are punishable by imprisonment.

- Free Contracting: In May 2006, the GOB issued a decree eliminating article 55 of decree 21060 that allowed free contracting of employees. Business owners predict that this new decree will decrease efficiency and lead to greater unemployment.

- Agrarian Reform: In November 2006, the GOB proposed and congress approved amendments to the agrarian reform law, which large agricultural producers claim have resulted in legal insecurity and made it difficult for them to access credit for their businesses.

- Trade: In April 2006, Bolivia entered into the People's Trade Agreement with Cuba and Venezuela, while refusing to negotiate a trade agreement with the U.S. Bolivia traded USD 0 with Cuba in 2006, and sales to Venezuela did not improve compared with previous years.

- Investments: In May 2007, Bolivia withdrew from the International Center for the Settlement of Investment Disputes, making its already poor investment climate and international reputation worse. This action had no beneficial effect for Bolivia, which will still be obliged to use ICSID's Additional Facility. The GOB has announced its intentions to renegotiate bilateral investment treaties and alter its investment law, which guarantees access to international arbitration.

- Company Take-Overs: The GOB declared in June 2006 that it would regain ownership of nine companies that were partially privatized in the 1990s. On the whole, these companies currently operate efficiently and have significantly expanded access to the services they provide, such as telecommunications and electricity, during the past decade. The government has begun its campaign with three hydrocarbons companies and one telecommunications firm, but has not completed its objectives due to legal obstacles. The GOB's plan to increase public sector control over these strategic economic areas is likely to lead to a decline of company efficiency and a drain on the national treasury. The announcement to take over gas pipeline operator Transredes has already resulted in a freeze on Transredes' credit which has delayed the implementation of important pipeline expansion projects that are desired by the GOB.

- Water Provision: The private water company Aguas de Illimani was kicked out of Bolivia because the public complained that the costs were too high. It was replaced with a public company, EPSAS, that recently announced plans to raise rates.

- Mining Nationalization: The GOB's nationalization of Swiss-owned mineral smelter Vinto in February 2007 resulted in a decline of sales and loss of profits.
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